

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION**

**HERBERT H. MULLINEX, JR.
and PATRICIA E. MULLINEX**

Plaintiffs,

v.

CIVIL ACTION NO.: 4:18-cv-00033

JOHN CRANE, INC.,

Defendant.

PLAINTIFF'S SUGGESTION OF DEATH PURSUANT TO FRCP 25

NOW comes Plaintiff, Patricia E. Mullinex, by counsel, and suggests upon the record the death of her husband and co-Plaintiff, Herbert H. Mullinex, Jr., on November 11, 2021. Under maritime law, Herbert Mullinex's claims survive his death. *See, e.g., See Wahlstrom v. Kawasaki Heavy Indus., Ltd.*, 4 F.3d 1084 (2nd Cir. 1993); *Law v. Sea Drilling Corp.*, 523 F.2d 793, 795 (5th Cir. 1975); *Barbe v. Drummond*, 507 F.2d 794, 799-800 (1st Cir. 1974); *Spiller v. Thomas M. Lowe, Jr. & Assocs., Inc.*, 466 F.2d 903, 909 (8th Cir. 1972); *Greene v. Vantage Steamship Corp.*, 466 F.2d 159, 166 & n.9 (4th Cir. 1972); *Boykin v. Bergesen D.Y. A/S*, 822 F. Supp. 324, 327 (E.D. Va. 1993) (noting that there is no dispute that a plaintiff may seek compensatory damages for pain and suffering in a general maritime law survival action.); *see also Goodwin v. Cockrell*, No. 4:13-CV-199-F, 2015 WL 12851580, at *11 (E.D.N.C. Oct. 14, 2015), *amended*, No. 4:13-CV 199-F, 2015 WL 12851581 (E.D.N.C. Dec. 30, 2015) (noting that "the Fourth Circuit has made clear that a maritime plaintiff may recover damages for pain and suffering" through a maritime survival action).

Mrs. Mullinex's claims continue unabated. Patricia Mullinex is in the process of being appointed Executor of her husband's estate and will file a Motion to Substitute a Proper Party pursuant to Fed. R. Civ. P. 25(a) as soon as her appointment is complete. Once she has qualified,

she will be the Executor of Herbert Mullinex's estate and the proper party under both maritime law and Virginia law to be substituted as the Plaintiff.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the **17th** day of **November, 2021**, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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